

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-12-61-RAW
)	
MICHAEL SCOTT CALHOUN, et al.,)	
)	
Defendants.)	

ORDER

Before the court are the objections of defendants Calhoun, Tucker and Davis to the Findings and Recommendation of the United States Magistrate Judge (#154). The court has reviewed the record, including the transcript of the hearing conducted by the Magistrate Judge.

The court agrees with the Magistrate Judge that the objecting defendants have not demonstrated a conflict of interest under *United States v. Flood*, 713 F.3d 1281 (10th Cir.2013). Further, to the extent the original motion argued that Mr. Calhoun’s testimony was in a sense compelled, the court also disagrees. “As a general matter, the Fifth Amendment privilege is not self-executing. . . An individual who makes self-incriminating statements without claiming the privilege is deemed not to have been ‘compelled’ but to have spoken voluntarily.” *United States v. Ramos*, 685 F.3d 120, 127 (2d Cir.), *cert. denied*, 133 S.Ct. 567 (2012).

It is the order of the court that the Findings and Recommendation of the United States Magistrate Judge are hereby affirmed and adopted. The motion to quash indictment and suppress testimony (#130) is hereby denied. The motions to join in that motion by other defendants (##133, 135 & 140) are granted.

ORDERED THIS 13th DAY OF JUNE, 2013.

Dated this 13th day of June, 2013.

A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma